

House File 391

HOUSE FILE _____
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 199)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a pilot program for the development of
2 cogeneration facilities, providing for the development of
3 ratemaking principles and rates for pilot program facilities,
4 and providing for a future repeal.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1619HV 80
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1 1 Section 1. NEW SECTION. 15.269 COGENERATION PILOT
1 2 PROGRAM.
1 3 1. DEFINITIONS. For purposes of this section, unless the
1 4 context otherwise requires:
1 5 a. "Cogeneration pilot project facility" means either a
1 6 utility-owned cogeneration pilot project facility or a
1 7 qualified cogeneration pilot project facility. Both a
1 8 utility-owned cogeneration pilot project facility and a
1 9 qualified cogeneration pilot project facility must be approved
1 10 by the department of economic development for participation in
1 11 the cogeneration pilot program established pursuant to
1 12 subsection 2.
1 13 b. "Energy sales agreement" means a negotiated agreement
1 14 for the sale of the electric output from the cogeneration
1 15 pilot project, between a qualified cogeneration pilot project
1 16 facility and an electric utility.
1 17 c. "Qualified cogeneration pilot project facility" means a
1 18 qualifying facility as defined in the federal Public Utility
1 19 Regulation Policies Act of 1978, 16 U.S.C. } 2601 et seq., and
1 20 related federal regulations.
1 21 d. "Utility-owned cogeneration pilot project facility"
1 22 means a cogeneration facility owned, in whole or in part, by a
1 23 rate-regulated electric utility that produces electric energy
1 24 and thermal energy for commercial purposes and is not a
1 25 qualifying facility as defined in the federal Public Utility
1 26 Regulatory Policies Act of 1978, 16 U.S.C. } 2601 et seq., and
1 27 related federal regulations.
1 28 2. PILOT PROGRAM ESTABLISHED.
1 29 a. It is the policy of this state to foster both the
1 30 development of cogeneration in Iowa and related economic
1 31 development associated with cogeneration projects.
1 32 It is the policy of this state that cogeneration projects
1 33 operate to the mutual benefit of businesses, industry, and
1 34 electric utilities in Iowa, financially and otherwise.
1 35 b. A cogeneration pilot program is established within the
2 1 department of economic development to obtain reliable energy
2 2 and economic benefits associated with successful development
2 3 of new, Iowa-based, electric power cogeneration strategies.
2 4 The department shall develop and administer the cogeneration
2 5 pilot program, according to the following:
2 6 (1) The department may choose up to two projects for
2 7 participation in the cogeneration pilot program:
2 8 (a) Each cogeneration pilot project facility must involve
2 9 two hundred megawatts or less of electricity, in combination
2 10 with one or more other cogeneration project facilities.
2 11 (b) Each cogeneration pilot project facility must be
2 12 constructed in Iowa.
2 13 (c) Each project chosen for participation in the
2 14 cogeneration pilot program must also have the approval and
2 15 support of the department for economic development purposes.
2 16 (2) The department may adopt specific application
2 17 guidelines and deadlines by rule pursuant to chapter 17A, or
2 18 follow established departmental procedures and guidelines, if
2 19 applicable. The guidelines, rules, and procedures shall not

2 20 require participation in a cogeneration pilot project or
2 21 program by any rate-regulated public utility providing retail
2 22 electric service to more than five hundred twenty thousand
2 23 customers in the state as of January 1, 2003, but any such
2 24 utility shall have the option to participate.

2 25 (3) The department shall assist in the implementation of
2 26 the cogeneration pilot program, and monitor the progress of
2 27 the participants. The department shall file its initial
2 28 report assessing the results of the pilot program with the
2 29 general assembly by December 1, 2004, and shall also file
2 30 yearly pilot program progress updates with the general
2 31 assembly through December 1, 2007.

2 32 c. The selection of a cogeneration project under this
2 33 program does not authorize an electric utility to furnish or
2 34 offer to furnish electric services to the public outside its
2 35 assigned area of service established under sections 476.22
3 1 through 476.26.

3 2 3. FUTURE REPEAL. This section is repealed July 1, 2007.
3 3 However, any utilities board proceeding that involves a
3 4 cogeneration pilot project facility that is pending on July 1,
3 5 2007, and that is being conducted pursuant to section 476.53
3 6 shall be completed notwithstanding the repeal of this section.

3 7 Sec. 2. Section 476.53, Code 2003, is amended by adding
3 8 the following new subsection:

3 9 NEW SUBSECTION. 2A. For purposes of this section, unless
3 10 the context otherwise requires, the terms "cogeneration pilot
3 11 project facility", "energy sales agreement", "qualified
3 12 cogeneration pilot project facility", and "utility-owned
3 13 cogeneration pilot project facility" mean the same as defined
3 14 in section 15.269.

3 15 Sec. 3. Section 476.53, subsections 3 and 4, Code 2003,
3 16 are amended to read as follows:

3 17 3. a. ~~If a rate-regulated public utility files The board~~
3 18 ~~shall specify in advance, by order issued after a contested~~
3 19 ~~case proceeding, the ratemaking principles that will apply~~
3 20 ~~when the costs of the electric power generating facility,~~
3 21 ~~alternate energy production facility, cogeneration pilot~~
3 22 ~~project facility, or energy sales agreement are included in~~
3 23 ~~regulated electric rates whenever a rate-regulated public~~
3 24 ~~utility does any of the following:~~

3 25 ~~(1) Files an application pursuant to section 476A.3 to~~
3 26 ~~construct in Iowa a baseload electric power generating~~
3 27 ~~facility with a nameplate generating capacity equal to or~~
3 28 ~~greater than three hundred megawatts or a combined-cycle~~
3 29 ~~electric power generating facility, or an alternate energy~~
3 30 ~~production facility as defined in section 476.42, or if a~~
3 31 ~~rate-regulated public utility leases.~~

3 32 ~~(2) Leases or owns in Iowa, in whole or in part, a new~~
3 33 ~~baseload electric power generating facility with a nameplate~~
3 34 ~~generating capacity equal to or greater than three hundred~~
3 35 ~~megawatts or a combined-cycle electric power generating~~
4 1 ~~facility, or a new alternate energy production facility as~~
4 2 ~~defined in section 476.42, the board shall specify in advance,~~
4 3 ~~by order issued after a contested case proceeding, the~~
4 4 ~~ratemaking principles that will apply when the costs of the~~
4 5 ~~facility are included in regulated electric rates.~~

4 6 ~~(3) Enters into an agreement for the purchase of the~~
4 7 ~~electric power output of a qualified cogeneration pilot~~
4 8 ~~project facility or constructs a utility-owned cogeneration~~
4 9 ~~pilot project facility pursuant to section 15.269.~~

4 10 b. In determining the applicable ratemaking principles,
4 11 the board shall not be limited to traditional ratemaking
4 12 principles or traditional cost recovery mechanisms.

4 13 c. In determining the applicable ratemaking principles,
4 14 the board shall make the following findings:

4 15 (1) The rate-regulated public utility has in effect a
4 16 board-approved energy efficiency plan as required under
4 17 section 476.6, subsection 19.

4 18 (2) The rate-regulated public utility has demonstrated to
4 19 the board that the public utility has considered other sources
4 20 for long-term electric supply and that the facility, ~~or lease,~~
4 21 ~~or cogeneration pilot project facility is reasonable when~~
4 22 ~~compared to other feasible alternative sources of supply. The~~
4 23 ~~rate-regulated public utility may satisfy the requirements of~~
4 24 ~~this subparagraph through a competitive bidding process, under~~
4 25 ~~rules adopted by the board, that demonstrate the facility,~~
4 26 ~~energy sales agreement, or lease is a reasonable alternative~~
4 27 ~~to meet its electric supply needs.~~

4 28 d. The applicable ratemaking principles shall be
4 29 determined in a contested case proceeding, which proceeding
4 30 may be combined with the proceeding for issuance of a

4 31 certificate conducted pursuant to chapter 476A.
4 32 e. The order setting forth the applicable ratemaking
4 33 principles shall be issued prior to the commencement of
4 34 construction or lease of the facility, or execution of an
4 35 energy sales agreement related to the cogeneration pilot
5 1 project facility.

5 2 f. Following issuance of the order, the rate-regulated
5 3 public utility shall have the option of proceeding with
5 4 ~~construction or lease of the facility in Iowa or withdrawing~~
5 5 according to either of the following:

5 6 (1) Withdrawing its application for a certificate ~~under~~
5 7 pursuant to chapter 476A.

5 8 (2) Proceeding with the construction or lease of the
5 9 facility or implementation of an energy sales agreement
5 10 related to a cogeneration pilot project facility.

5 11 g. Notwithstanding any provision of this chapter to the
5 12 contrary, the ratemaking principles established by the order
5 13 issued pursuant to paragraph "e" shall be binding with regard
5 14 to the specific electric power generating facility or
5 15 cogeneration pilot project facility in any subsequent rate
5 16 proceeding.

5 17 4. The utilities board and the consumer advocate may
5 18 employ additional temporary staff, or may contract for
5 19 professional services with persons who are not state
5 20 employees, as the board and the consumer advocate deem
5 21 necessary to perform required functions as provided in this
5 22 section, including but not limited to review of power purchase
5 23 contracts, review of emission plans and budgets, and review of
5 24 ratemaking principles proposed for construction or lease of a
5 25 new generating facility or a cogeneration pilot project
5 26 facility. Beginning July 1, 2002, there is appropriated out

5 27 of any funds in the state treasury not otherwise appropriated,
5 28 such sums as may be necessary to enable the board and the
5 29 consumer advocate to hire additional staff and contract for
5 30 services under this section. The costs of the additional
5 31 staff and services shall be assessed to the utilities pursuant
5 32 to the procedure in section 476.10 and section 475A.6.

5 33 Sec. 4. Section 476.53, Code 2003, is amended by adding
5 34 the following new subsection:

5 35 NEW SUBSECTION. 5. DETERMINATION OF AVOIDED COST FOR
6 1 COGENERATION PROJECTS.

6 2 a. A qualified cogeneration pilot project facility may
6 3 file a petition with the board for a determination of the
6 4 avoided cost of an electric utility as provided in the federal
6 5 Public Utility Regulatory Policies Act of 1978 and related
6 6 federal regulations, if such a determination has not been made
6 7 within the last twenty-four months or if there is reason to
6 8 believe the avoided cost has changed.

6 9 b. The board shall issue its determination of the electric
6 10 utility's avoided cost within one hundred twenty days after
6 11 the petition is filed.

6 12 c. The board, for good cause shown, may extend the
6 13 deadline for issuing the decision for an additional period not
6 14 to exceed one hundred twenty days.

6 15 d. The board shall not issue a decision under this
6 16 subsection without providing notice and an opportunity for
6 17 hearing.

6 18 e. The utilities board and the consumer advocate may
6 19 employ additional temporary staff, or may contract for
6 20 professional services with persons who are not state
6 21 employees, as the board and the consumer advocate deem
6 22 necessary to perform required functions as provided in this
6 23 subsection. There is appropriated out of any funds in the
6 24 state treasury not otherwise appropriated, such sums as may be
6 25 necessary to enable the board and the consumer advocate to
6 26 hire additional staff and contract for services under this
6 27 section. The costs of the additional staff and services shall
6 28 be assessed to the electric utility pursuant to the procedure
6 29 in sections 476.10 and 475A.6.

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